

NEW SECTION

1 **WAC 391-25-071 Special provision - Family child care**
2 **providers.** This emergency rule consolidates special procedures
3 applicable to family child care providers under the "access to
4 quality family child care act" (FCCA), chapter 54, laws of 2006,
5 which became effective March 15, 2006, upon signature by the
6 Governor. The FCCA extended the coverage of chapter 41.56 RCW to
7 any "family child care provider" defined as a person who: (a)
8 Provides regularly scheduled care for a child or children in the
9 home of the provider or in the home of the child or children for
10 periods of less than twenty-four hours or, if necessary due to the
11 nature of the parent's work, for periods equal to or greater than
12 twenty-four hours; (b) receives child care subsidies; and (c) is
13 either licensed by the state under RCW 74.15.030 or is exempt from
14 licensing under Chapter 74.15 RCW.

15 (1) The posting of notice requirement in WAC 391-25-140 is
16 inapplicable to the bargaining unit affected by the FCCA.

17 (2) The description of bargaining unit requirement of WAC
18 391-25-190 is limited to a single, statewide unit of family child
19 care providers under the FCCA.

20 (3) The description of bargaining unit requirement of WAC
21 391-25-210(2) is limited to a single, statewide unit of family
22 child care providers under the FCCA.

23 (4) The provisions of WAC 391-25-210(3) relating to alterna-
24 tive units or mergers of units are inapplicable to the bargaining
25 unit affected by the FCCA.

26 (5) The posting requirement in WAC 391-25-220(2), relating to
27 investigation statements, is inapplicable to the bargaining unit
28 affected by the FCCA.

29 (6) The posting requirement in WAC 391-25-230(2), relating to
30 election agreements, is inapplicable to the bargaining unit
31 affected by the FCCA.

32 (7) The cross-check procedures in WAC 391-25-250, 391-25-391,
33 and 391-25-410 are inapplicable to the bargaining unit affected by
34 the FCCA.

35 (8) The unit determination election procedures in WAC
36 391-25-420 are inapplicable to the bargaining unit affected by the
37 FCCA.

38 (9) The requirements of WAC 391-25-430, relating to posting
39 of election notices on the employer's premises, is inapplicable to
40 the bargaining unit affected by the FCCA.

41 (10) Any representation election for the bargaining unit
42 affected by the FCCA shall be conducted by mail ballot under WAC
43 391-25-470, with the following modifications:

44 (a) Together with the procedures for casting ballots, the
45 notice supplied to family child care providers may describe the
46 collective bargaining rights established by the FCCA and agreements
47 reached by the parties to the proceedings concerning the election
48 process;

49 (b) The notice and ballot materials supplied to all family
50 child care providers shall be set forth in English and Spanish;

51 (c) The ballot materials supplied to family child care
52 providers shall include a card return-addressed to the commission,
53 by which eligible voters can individually request ballot materials
54 in languages other than English which have been specified by one or
55 more of the parties in an investigation conference conducted under
56 WAC 391-25-220 and, upon receipt of a such request card, the agency
57 shall supply ballot materials to the eligible voter in the
58 requested language.

59 (d) At least twenty-eight days shall be provided between the
60 date on which ballot materials are mailed to family child care
61 providers and the deadline for return of cast ballots to the
62 commission.

63 (e) The executive director shall have discretion to vary
64 tally arrangements and procedures from those customarily used,
65 because of the large size of the bargaining unit involved, so long
66 as the principles of secret balloting are preserved.

67 (f) The reference in WAC 391-25-470 to WAC 391-25-140 shall
68 be interpreted in light of subsection (1) of this section.

69 (11) The procedure for on-site elections in WAC 391-25-490 is
70 inapplicable to the bargaining unit affected by the FCCA.

71 (12) The procedure in WAC 391-25-531 is inapplicable to the
72 bargaining unit affected by the FCCA, and the need for a runoff
73 election shall be determined under WAC 391-25-530(2).

Explanation: This rule is patterned after WAC 391-25-051, which is the special rule adopted by the Commission for representation elections involving individual providers under the Home Care Quality Authority (HCQA). In both the HCQA and FCCA situations: (1) a state-wide unit is required; (2) the number of eligible voters is very large; (3) the eligible voters are employed in private residences, so required posting of notices on employer premises cannot be enforced; and (4) multiple languages may be needed for ballot materials. The FCCA further reduces the unique "majority of those eligible" test for runoff elections in RCW 41.56.070 to the conventional "majority of those voting" test. The 24-day period for return of ballots in WAC 391-25-051 is changed to 28 days, because 24 days proved to be tight for turnaround of requests for foreign language ballot materials.